

Remarks

I. Status of the Claims

Claims 28-49 are currently pending. In the interest of expediting prosecution and per the Office's guidelines with respect to *In re Bilski*, Applicants have amended independent Claim 28 to more clearly recite that the claims are tied to another statutory class. In addition, Applicants respectfully submit that the claims transform underlying subject matter. Additionally, Applicants have amended Claims 28, 37-39, and 48-49 to further clarify the claimed embodiment.

Support for the amendments can be found throughout the application and therefore no new matter is added in this response.

II. Rejection under 35 U.S.C. §112, first paragraph

On page 2 of the Office Action, the Office rejected Claims 28-49 under 35 U.S.C. §112, first paragraph, for allegedly failing to comply with the written description requirement. More specifically, the Office contends that Applicants' disclosure does not sufficiently describe a number of elements of the claims. This contention is respectfully traversed. Additionally, Applicants respectfully submit that the currently pending claims were amended, as shown above, to further clarify the claimed embodiment.

Applicants respectfully submit that when a disclosure describes a claimed invention in a manner that permits one skilled in the art to reasonably conclude that the inventor possessed the claimed invention, the written description requirement is satisfied. (MPEP §2163). This possession may be shown in any number of ways and an applicant need not describe every claim feature exactly because there is no in haec verba requirement. (MPEP §2163). Rather, to satisfy the written description requirement, all that is required is "reasonable clarity." (MPEP §2163.02).

Applicants respectfully submit that one of ordinary skill in the art would reasonably conclude that Applicants' disclosure adequately described the claimed invention at the time of filing at least based on the following.

a. Identifying a Position by a User

The feature of “identifying a position by a user ...” is described at page 30 of Applicants’ specification as filed. Applicants respectfully note that Claim 28 was amended to further clarify the claimed invention, as shown above, and currently recites “identifying ... a long or short position.” According to amended Claim 28, the “long position” is associated with “a quantity of the tradeable object that has been bought by the user at a price,” and the “short position” is associated with “a quantity of the tradeable object that has been sold by the user at a price.”

The example at page 30 of Applicants’ specification is directed to P/L being a derivative of price. According to the provided example, a trader has bought one lot of a particular tradeable object at the price of “230.” Applicants respectfully submit that one of ordinary skill in the art would understand that buying one lot of a tradeable object creates a long position that is “taken by a user with respect to the tradeable object,” as recited by Applicants’ Claim 1, and “wherein the position is associated with a quantity of the tradeable object that has been bought or sold by the user at a price,” i.e., according to the provided example, one lot of the tradeable object was bought at the price of “230.”

b. Computing a Plurality of Values Based on the Position

The feature of “computing a plurality of values based on the long or short position, wherein each of the plurality of the plurality of values represents a profit or loss if the long or short position is closed at a price level,” per amended Claim 28, is also described at page 30 of Applicants’ specification as filed. More specifically, as described in the specification, if a trader has bought one lot of a particular tradeable object at “230,” thus creating a net position of “+1,” the value axis might include a value of “0” associated with the price of “230.” In other words, the value of “0” indicates the gross profit to be acquired if one lot of the tradeable object was sold, i.e., “the long position was closed,” at the associated price, i.e., at the price of “230.” Similarly, the value axis might include “+1” associated with “231,” e.g., if one lot was sold at “231,” “+2” associated with “232,” e.g., if one lot was sold at “232,” and “-1” associated with “229,” e.g., if one lot was sold at “229,” and “-2” associated with “228,” e.g., if one lot was sold at “228.”

c. Displaying a First Indicator Corresponding to a First Value

The feature of displaying indicators along the value axis, such as the current best bid indicator or the current best ask indicator, is described in relation to multiple figures of Applicants' specification as filed. For example, Figure 8 illustrates the current best bid indicator "15" at the price of "230," and the current best ask indicator at the price of "232." (See also, page 30 of Applicants' specification as filed). As explained at page 30, in the embodiment where P/L values are mapped to a value axis, the value axis might include a value of "0" associated with the price of "230," as well as other values, as explained in the previous section.

d. Moving the First Indicator Relative to the Value Axis

The feature of moving indicators relative to the value axis is described in relation to Figure 2 of Applicants' specification as filed. (See, also, page 3 of Applicants' specification). Additional description of the screen can be found in U.S. Patent Application No. 09/590,692 (now U.S. Patent No. 6,772,132) and U.S. Patent Application No. 09/589,751 (now, U.S. Patent No. 6,938,011), both of which were incorporated by reference in Applicants' specification. (See, e.g., Applicants' specification page 7).

e. Position

The Office asserts that page 27 is the only place in Applicants' specification that mentions a "position." Furthermore, the "position" described on page 27 is related to a position of a cursor on a screen. Thus, the Office asserts that "a position associated with a quantity of the tradeable object that has been bought or sold by the user at a price" is the new matter. Applicants amended the currently pending claims to more clearly recite the claimed invention. Applicants respectfully traverse the rejection and submit that one of ordinary skill in the art would understand that when a trader buys one lot of a tradeable object, as explained on page 30 of Applicants' specification as filed, as well as the preceding sections, a long position of "+1" is established. Similarly, when a trader sells one lot of the tradeable object at a specific price, a short position of "-1" is established. Thus, Applicants respectfully submit that the disclosure describes the claimed invention in a manner that permits one skilled in the art to reasonably conclude that the inventor possessed the claimed invention at the time of filing of the application.

Accordingly, Applicants respectfully submit that the written description requirement is satisfied with respect to all features of the currently pending claims.

III. Rejection under 35 U.S.C. §112, second paragraph

Claims 28-49 are rejected under 35 U.S.C. §112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicants respectfully submit that the essential question under 35 U.S.C. §112, second paragraph, is whether the claims do, in fact, set out and circumscribe a particular area with a reasonable degree of precision and particularity. Definiteness of claim language is analyzed, not in a vacuum, but always in light of the teachings of the prior art and of the particular application disclosure as it would be interpreted by one possessing the ordinary level of skill in the pertinent art. (MPEP 2173.02).

The Office asserts that “if a position has already been taken [in association with a quantity of the tradeable object] and it is associated with something that has already been bought or sold at a price by the user, it is unclear what the Applicant meant by the position is closed at a price level.” Applicants respectfully traverse the rejection and refer the Office to the discussion of creating and closing long and short positions taken by a user in the preceding section. Additionally, Applicants respectfully submit that the claimed embodiment is even clearer based on the current amendment. Applicants respectfully submit that one of ordinary skill in the art of trading would understand that a trader can create a long or short position by buying or selling a quantity of a tradeable object, and that the trader can close the created position by selling or buying the same quantity, respectively. Thus, Applicants respectfully request reconsideration.

VI. Conclusion

Applicant respectfully submits that pending Claims 28-49 are in condition for allowance. Applicants request favorable reconsideration. If Examiner believes that further dialog would expedite consideration of the application, Examiner is invited to contact Trading Technologies Patent Counsel Monika Dudek at 312-476-1118, or the undersigned attorney or agent.

Respectfully submitted,

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